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SUBJECT: LIBERIA STUMBLES IN EFFORT TO PASS TELECOMMUNICATIONS REGULATION

¶1. (SBU) SUMMARY: There are indications that comprehensive but flawed legislation to regulate Liberia's telecommunications market is close to a final vote. The late inclusion of a few, but significant, anti-competitive measures raises concern that the Act may have an immediate impact on current GSM mobile operators and could undermine the largely open market conditions that were responsible for the rapid expansion of telecom services and lower prices in recent years. World Bank advisors are unhappy with the amendments but remain supportive overall of the Act that seeks to provide a more comprehensive definition of the sector and more authority for the relatively new regulator, the Liberia Telecommunications Authority (LTA). The Bank and private operators have encouraged the GOL to allow public hearings before any final vote. Post supports this call for an open and transparent consultative process. END SUMMARY.

¶2. (U) In August, 2006, the Liberian Senate confirmed the Chairman and Board of Commissioners of the Liberia Telecommunications Authority (LTA), newly established following the passage of an Act by the National Transitional Legislative Assembly (NTLA). The LTA oversees the scope and operations of the country's telecommunications industry, a role previously played by the Ministry of Posts and Telecommunication (MPT).

¶3. (U) The LTA faced two urgent priorities: 1) to renegotiate the licenses previously awarded to each of Liberia's four GSM mobile network operators; and 2) with support from the World Bank, to help elaborate a comprehensive and permanent National Telecommunications Law.

¶4. (U) In January 2007, LTA thought it had completed its first mandate. After several months of negotiation, LTA was finally able to draft a licensing agreement calling for the four GSM operators to pay an annual license renewal fee of $300,000 and to have the life of the individual licenses extended for 18 years. The four operators who received the licenses were:

-- LoneStar Communications (http://www.lonestarcell.com/), which launched a GSM network in 2001 and has gradually extended it outside the capital. Majority-owned by South Africa's MTN.

-- Cellcom (http://www.cellcomgsm.com/), a new GSM operator that appeared in 2004 and is U.S.-owned

-- Comium Liberia (http://www.comium.com.lr/), Lebanese-owned.

-- Atlantic Wireless Liberia, under the Libercell brand, (http://www.libercell.info/), Lebanese-owned.

¶5. (SBU) Within days, however, the GOL asked the Ministry of Justice to nullify the licenses signed by the LTA. The President reprimanded the LTA, saying it had no authority to sign on behalf of the GOL. In

newspaper reports, the GOL suggested it wanted to make sure that the LTA had acted "within the confines of the laws" when it entered into the contracts with the GSM companies. According to World Bank (WB) advisors, the Minister of Finance and others thought that the agreement did not reflect the true value of the market and the Ministry of Justice claimed that the incentives embedded within the licenses required MOJ approval before issuance. The WB advisor suggested the GOL sought not only to increase receipts from renewal fees but also to re-examine the incentives that had been included in the licenses. To date, the licenses have not been finalized and all four operators are conducting business based on much older (and cheaper) agreements. Moreover, the LTA remains uncertain of its authority to grant licenses based on this initial experience.

¶7. (SBU) Meanwhile, a special draft review committee composed of officials from MOF, LTA, MPT, the Liberia Telecommunication Corporation (LTC) and World Bank advisors finalized a draft Telecommunications Act that would repeal a handful of outdated Acts and laws covering telecommunications and establish an interim framework for telecom regulation. The committee handed its draft to the GOL in November 2006. According to World Bank consultant, Jerome Broche, the GOL made several changes to "what was previously a good draft," and then transferred the draft to the legislature in February. The President then asked the legislature to adopt the Act during its emergency session that commenced April 23. However, the legislature sent the Act back to committee for further deliberations.

¶8. (U) The most significant change the GOL made to the draft Act was the insertion of language that establishes the LTC as a "national operator" with special privileges. The role and responsibility of the "national operator" is poorly defined and could allow the LTC to expand in a number of directions. LTC is the public company that has a monopoly on the operation of the now essentially non-existent

fixed-line telephony network in Liberia. LTC is currently suffering financial difficulties. LTC reportedly has a potential fixed tele-density of only 0.21 per cent based on less than 7,000 installed land lines in the entire country. The central Monrovia network was badly damaged during the civil war and rural telephone networks were completely destroyed during the fighting.

¶9. (SBU) A WB source told EconOff that the World Bank thinks the changes to the draft were "counterproductive and damaging to the market." He called LTC "a hollow shell that doesn't exist" and said the idea of beefing up a state-owned, national fixed-line carrier was contrary to logic when Liberia's mobile telephony market was already very efficient, characterized by low prices and improving service. The WB advisor suspects the goal is to allow LTC to expand into the mobile market, damaging the generally good market conditions. Despite these criticisms, the Bank has decided that overall the Act is a workable compromise and does not intend to push the GOL over the LTC provisions. The Bank does, however, advocate a transparent, consultative process that should include public hearings before any final vote. The Bank would not insist on appearing at the debate but would likely respond positively to an invitation from the legislature to present its opinions on the Act.

¶10. (SBU) Current GSM mobile operators are not so sanguine. U.S.-owned Cellcom President Yoram Cohen told EconOff on April 23 that the entire industry (including his prime competitor, Lonestar) are concerned that the Act would force private operators to fund a state-owned competitor. He pointed out that the draft Act was written by a committee that included two officials from the current LTC Board of Directors, Ben Wolo and Nathaniel Kevin, both of whom allegedly inserted the new language benefiting the national operator.

¶11. (U) Cohen said an abrupt passage of the act in its current form could stifle the open competition that has already expanded telecom services and lowered prices. Cellcom is urging the legislature to allow an open debate and to reconsider several key provisions of the Act, most importantly the re-establishment of LTC, but also other industry criticisms including a loophole that would authorize mandatory routing of inbound international calls through a third

party national operator (presumably LTC), a provision to force service providers to allow the GOL to intercept subscriber calls without any liability protection for the operators, and the absence of incentive arrangements that are an integral part of current operating agreements.

¶12. (SBU) Comment: GOL's interest in sustaining LTC as a potential operator (as opposed to regulator) could be linked to Chinese proposals to build a national Information and Communications Technology (ICT) network provided they (the Chinese) can run LTC for the next 10-20 years. End comment.

¶13. (SBU) On April 26, it appeared that the legislature was moving in the direction of a broader public airing of the bill. LTA Commissioner Lamini Waritay told EconOff that the bill would likely not come back for a vote until mid-May. Cellcom said it had been assured by the legislative subcommittee that the law would not be scheduled until after House Speaker, Alex Tyler, returns from the U.S. May 5, and hearings would likely occur the second week of May. Broche indicated World Bank telecom experts are expected to arrive in country that same week.

¶14. (SBU) COMMENT: Telecommunications technology provides the potential for Liberia to leapfrog over the traditional wireline and monopolistic environments that were common throughout post independence Africa, provided the GOL establishes the appropriate forward-thinking, independent regulatory regime. The failure to back the LTA with a permanent, independent and comprehensive national telecommunications law has left LTA vulnerable. Unfortunately, the current draft contains disturbing anti-competitive measures that do not serve the interests of Liberia and may drive out the very competitive firms responsible for increased service and lower prices. World Bank expert advice on "best practices" has come up against tendencies within some GOL quarters to "Liberianize" - in this case to create what LTC Commissioners have described as an "organic model suited to Liberia's unique conditions." There are already a good number of private competitors in the mobile market and it makes no sense to inject the distortion of a GOL-owned competitor. We will seek to ensure that these issues are raised in the appropriate public forum before any final vote on the Act is taken. END COMMENT.

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